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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/556,833

11/15/2005

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EXAMINER

BRINICH, STEPHEN M

ART UNIT

PAPER NUMBER

2625

MAIL DATE

DELIVERY MODE

05/10/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/556,833	<b>Applicant(s)</b> GOMILA ET AL.	
	<b>Examiner</b> STEPHEN M. BRINICH	<b>Art Unit</b> 2625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,10,14,15 and 26 is/are rejected.
- 7) ☒ Claim(s) 2-8,11-13 and 16-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: ____.  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :11/15/05, 5/18/07, 3/11/08, 8/17/09, 3/15/10, 4/5/10.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 2, the term "out-of-band" is unclear as to how it limits the recited transmission operation, insofar as the "band" that the transmission is "out of" has not been defined.

In claim 10, line 2, the term "inband" is unclear as to how it limits the recited transmission operation, insofar as the "band" that the transmission is "in" has not been defined.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1 & 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Faber (EP 0622000, 5/18/07 Information Disclosure Statement).

Re claims 1 & 15, Faber discloses (paragraphs 0014 & 0021-0022; Figure 1) a method and apparatus of providing an image information stream and additional image information indicative of film grain. The film grain information includes a parameter (a gray scale modifier) specifying a film grain attribute. The film grain information is encoded into the image information for transmission to the output.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14 & 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faber.

Re claims 14 & 26, Faber does not specify the use of the ITU-T-H.264 video coding standard to code the image information

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(in which the film grain information is encoded, and thus included).

The selection of one particular known video coding standard rather than another (such as the NTSC, PAL, or SECAM standards described in Faber (e.g. paragraph 0025)) would be selection of one of a set of equivalent choices known to one of ordinary skill in the art. The selection of one of a set of equivalent choices known to one of ordinary skill in the art, where the reasons for the selection of one equivalent rather than another is not to solve an existent problem, has been judicially recognized as an expedient obvious to one of ordinary skill in the art. In re Ruff, 118 USPQ 343 (CCPA 1958).

***Allowable Subject Matter***

7. Claims 2-8, 11-13 & 16-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 9-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

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Re claims 2 & 16 (and dependent claims 3-6, 8, 11-13, 17-20, & 23-25), the art of record does not teach or suggest the recited plurality of correlation parameters and intensity-independent parameters in conjunction with the recited arrangement of coding film grain information including at least one film grain attribute parameter.

Re claims 7 & 21, the art of record does not teach or suggest the recited use of a random film grain component in conjunction with the recited arrangement of coding film grain information including at least one film grain attribute parameter.

Re claim 9, insofar as it is understood, the art of record does not teach or suggest the recited use of an out-of-band transmission of film grain information in conjunction with the recited arrangement of coding film grain information including at least one film grain attribute parameter.

Re claim 10, insofar as it is understood, the art of record does not teach or suggest the recited use of an in-band transmission of film grain information in conjunction with the recited arrangement of coding film grain information including at least one film grain attribute parameter.

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